

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES COZZENS and I-75 OUTER
DRIVE ADULT BOOK STORE,

Plaintiffs,

Case No. 08-11778

v.

Hon. John Corbett O'Meara

CITY OF LINCOLN PARK,
a municipal corporation,

Defendant,

and

PAPALAS DRIVE DEVELOPMENT, LLC,
and HDV – LINCOLN PARK LLC,

Intervenors.

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ORDER REGARDING DISQUALIFICATION

By writing a letter to the court, Plaintiffs raise an issue regarding the assignment of this case. On January 20, 2009, Plaintiffs wrote a letter to the court to “alert the Court to facts which the Court may consider important to avoid an appearance of partiality.” Plaintiffs note that this judge’s son, Corbett Edge O’Meara, represents an entity known as HDV - Greektown in another case pending in this court. Plaintiffs suggest that HDV - Greektown is related to HDV - Lincoln Park, an intervenor in this action. Plaintiffs do not seek to disqualify the court in this case, nor do Defendant or Intervenors. In fact, Defendant and Intervenors object to the reassignment of this matter in a letter dated January 22, 2009.

Having reviewed the facts as presented by the parties, the court finds no basis to

disqualify itself in this matter. See 28 U.S.C. § 455; Cloverdale Equip. Co. v. Manitowoc Engineering Co. 964 F. Supp. 1152, 1155-56 (E.D. Mich. 1997) (Gadola, J.). Corbett Edge O'Meara does not represent any of the litigants in this action. The parties have not suggested how his representation of HDV - Greektown in a different case has any impact here. Nor have the parties suggested how Corbett Edge O'Meara's representation of HDV- Greektown creates any appearance of partiality or impropriety in this case. Indeed, all parties agree that the court can be fair and impartial; and no party is seeking this court's disqualification. The court believes that its impartiality is not reasonably questioned here. See 28 U.S.C. § 455(a). Under these circumstances, the court will not disqualify itself.

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: January 26, 2009

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, January 26, 2009, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager